THE HON'BLE MS JUSTICE G. ROHINI

W.P.No.6855 of 2006

Dated: 01-09-2006

Between:

Smt Kuncha Kondamma.

..Petitioner

and

The State Bank of India, rep. by its Branch Manager,
Gopalapatnam Branch, Visakhapatnam and another.

..Respondents.

THE HON'BLE MS JUSTICE G. ROHINI

W.P.No.6855 of 2006

ORDER:

This writ petition is filed aggrieved by the auction notice dated 08-03-2006 issued by the 1st respondent Bank proposing to sell the property, i.e., an extent of Ac:0-40 cents of land situated in Sy.Nos.140 and 141 of Venkatapuram, near Gopalapatnam at Visakhapatnam, belonging to the petitioner.

This Court while directing notice to respondents by order dated 06-04-2006, left it open to the respondents to proceed with the auction, but stayed its confirmation. In the counter-affidavit filed on behalf of the respondents, the allegation of the petitioner that the procedure prescribed under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 Act (for short 'the Act') was not followed has been denied and it is stated that the property in question was mortgaged by one M/s. Sri Sai Krishna Enterprises, who is not made a party to this writ petition.

Having heard the learned counsel for both parties and having regard to the material on record, it appears that the matter involves several disputed questions of fact, which can be adjudicated only on the basis of the evidence that may be adduced by both the parties. It is brought to my notice as a matter of fact,

the petitioner has already filed an appeal under Section 17 of the Act before the Debts Recovery Tribunal, Visakhapatnam. In the circumstances, I am of the opinion that it would be appropriate for the petitioner to pursue the appeal for redressal of her grievance. Accordingly, granting leave and liberty to the petitioner to raise all the grounds before the Tribunal, the Writ Petition is disposed of. No costs.

Keeping in view the interim stay granted by this Court pending this writ petition, it is made clear that the respondents shall not take any coercive steps against the petitioner for a period of four weeks from today.

_____

G. ROHINI, J

Dated: 01-09-2006
sj